

DOCKET NO.: C1041.70005US00

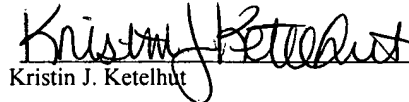
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Wagner et al.  
Serial No.: 09/355,254  
Confirmation No.: 6183  
Filed: February 22, 2000  
For: PHARMACEUTICAL COMPOSITIONS COMPRISING A  
POLYNUCLEOTIDE AND OPTIONALLY AN ANTIGEN ESPECIALLY  
FOR VACCINATION

Examiner: Jane J. Zara  
Art Unit: 1635

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 13th day of October, 2004.

  
Kristin J. Ketelhut

MAIL STOP AMENDMENT

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

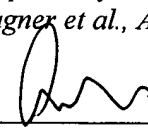
- Information Disclosure Statement
- PTO Form 1449 with cited references
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 646-8000, Boston, Massachusetts.

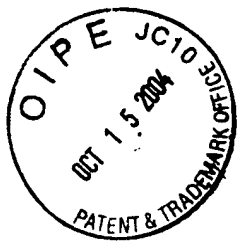
A check in the amount of \$180 is enclosed to cover the fee. If the fee is insufficient, the balance may be charged to Deposit Account 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,  
*Wagner et al., Applicant*

By:

  
Alan W. Steele, M.D., Ph.D., Reg. No.: 45,128  
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Telephone: (617) 646-8000

Docket No.: C1041.70005US00  
Date: October 13, 2004  
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**MAIL STOP AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 C.F.R. §§ 1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§ 1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. § 1.97**

This Information Disclosure Statement has been filed more than three months after the filing date of this application and after the mailing date of the first Office Action, but before the mailing date of either a final action under 37 C.F.R. § 1.113 or a Notice of Allowance under 37 C.F.R. § 1.311, or an action that otherwise closes prosecution in this application.

The fee of \$180 as set forth in 37 C.F.R. § 1.17(p) is enclosed.

10/19/2004 SSANDARA 00000009 09355254

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PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

| <u>Docket No.</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Inventor(s)</u> |
|-------------------|-------------------|--------------------|--------------------|
| *C1040.70012US00  | 10/644,267        | 08-20-2003         | Davis et al.       |
| *C1041.70005US01  | 10/811,226        | 03-26-2004         | Wagner et al.      |
| *C1037.70039US01  | 10/816,220        | 04-01-2004         | McCluskie et al.   |
| *C1037.70013US01  | 10/831,778        | 04-23-2004         | Bratzler et al.    |
| *C1039.70048US03  | 10/831,647        | 04-23-2004         | Krieg et al.       |
| *C1039.70058US01  | 10/831,775        | 04-23-2004         | Davis et al.       |
| *C1039.70057US01  | 10/838,659        | 05-03-2004         | Davis et al.       |
| *C1039.70048US04  | 10/847,642        | 05-15-2004         | Krieg et al.       |
| *C1039.70083US08  | 10/847,650        | 05-15-2004         | Krieg et al.       |
| *C1041.70036US01  | 10/872,196        | 06-18-2004         | Lipford et al.     |
| *C1039.70048US05  | 10/877,407        | 06-24-2004         | Krieg et al.       |
| *C1041.70002US01  | 10/877,369        | 06-25-2004         | Wagner et al.      |
| *C1041.70002US02  | 10/876,965        | 06-25-2004         | Wagner et al.      |
| *C1041.70002US03  | 10/876,892        | 06-25-2004         | Wagner et al.      |
| *C1039.70035US01  | 10/884,866        | 07-02-2004         | Krieg et al.       |
| *C1039.70048US06  | 10/884,852        | 07-02-2004         | Krieg et al.       |
| *C1041.70016US01  | 10/884,372        | 07-02-2004         | Bauer et al.       |
| *C1039.70035US02  | 10/888,803        | 07-09-2004         | Krieg et al.       |
| *C1039.70048US07  | 10/888,785        | 07-09-2004         | Krieg et al.       |
| *C1039.70048US08  | 10/888,449        | 07-09-2004         | Krieg et al.       |
| *C1039.70083US09  | 10/888,885        | 07-09-2004         | Krieg et al.       |
| *C1039.70083US10  | 10/888,089        | 07-09-2004         | Krieg et al.       |
| *C1040.70006US01  | 10/888,886        | 07-09-2004         | McCluskie et al.   |
| *C1039.70048US09  | 10/894,657        | 07-16-2004         | Krieg et al.       |
| *C1039.70048US10  | 10/894,862        | 07-16-2004         | Krieg et al.       |
| *C1041.70005US02  | 10/894,655        | 07-16-2004         | Wagner et al.      |

| <u>Docket No.</u> | <u>Serial No.</u> | <u>Filing Date</u> | <u>Inventor(s)</u> |
|-------------------|-------------------|--------------------|--------------------|
| *C1039.70020US01  | 10/921,086        | 08-18-2004         | Krieg et al.       |
| *C1039.70048US11  | 10/928,762        | 08-26-2004         | Krieg et al.       |

\*A copy of this reference is not provided as the Office has waived the requirement under 37 CFR 1.98(a)(2)(iii) for submitting a copy of each cited U.S. patent application filed after June 30, 2003 (and for applications filed before June 30, 2003, or that entered the national stage before June 30, 2003, if they are scanned to Image File Wrapper system and are available on Private PAIR).

### PART III: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. § 102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.

Serial No.: 09/355,254  
Conf. No.: 6183

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Art Unit: 1635

An early and favorable action is hereby requested.

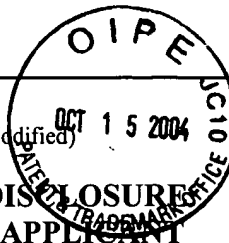
Respectfully submitted,  
*Wagner et al., Applicant*

By:



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45,128  
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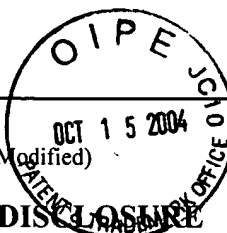
Docket No.: C1041.70005US00  
Date: October 13, 2004  
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|---|---|----|---|--------------------------------|--|-----------------------------------|--|
| <b>FORM PTO-1449/A and B (Modified)</b><br><br><b>INFORMATION DISCLOSURE<br/>STATEMENT BY APPLICANT</b> |   |    |   | APPLICATION NO.: 09/355,254    |  | ATTY. DOCKET NO.: C1041.70005US00 |  |
|   |   |    |   | FILING DATE: February 22, 2000 |  | CONFIRMATION NO.: 6183            |  |
|   |   |    |   | APPLICANT: Wagner et al.       |  |                                   |  |
|   |   |    |   | GROUP ART UNIT: 1635           |  | EXAMINER: Jane J. Zara            |  |
| Sheet   | 1 | of | 2 |                                |  |                                   |  |

**U.S. PATENT DOCUMENTS**

| Examiner's<br>Initials | Cite<br>No. | U.S. Patent Document |              | Name of Patentee or Applicant of Cited<br>Document | Date of Publication or of issue<br>of Cited Document<br>MM-DD-YYYY |
|------------------------|-------------|----------------------|--------------|--|--|
|                        |             | Number               | Kind<br>Code |  |  |
|                        | A38         | 6,339,068            | B1           | Krieg et al.                                       | 01-15-2002   |
|                        | A39         | 6,406,705            | B1           | Davis et al.                                       | 06-18-2002   |
|                        | A40         | 6,429,199            | B1           | Krieg et al.                                       | 08-06-2002   |
|                        | A41         | 6,653,292            | B1           | Krieg et al.                                       | 11-25-2003   |
|                        | A42         | 6,727,230            | B1           | Hutcherson et al.                                  | 04-27-2004   |
|                        | A43         | 2001-0044416         | A1           | McCluskie et al.                                   | 11-22-2001   |
|                        | A44         | 2003-0026782         | A1           | Krieg et al.                                       | 02-06-2003   |
|                        | A45         | 2003-0212026         | A1           | Krieg et al.                                       | 11-13-2003   |
|                        | A46         | 2003-0224010         | A1           | Davis et al.                                       | 12-04-2003   |
|                        | A47         | 2003-0232074         | A1           | Lipford et al.                                     | 12-18-2003   |
|                        | A48         | 2004-0030118         | A1           | Wagner et al.                                      | 02-12-2004   |
|                        | A49         | 2004-0053880         | A1           | Krieg  | 03-18-2004   |
|                        | A50         | 2004-0067905         | A1           | Krieg  | 04-08-2004   |
|                        | A51         | 2004-0087534         | A1           | Krieg et al.                                       | 05-06-2004   |
|                        | A52         | 2004-0087538         | A1           | Krieg et al.                                       | 05-06-2004   |
|                        | A53         | 2004-0092472         | A1           | Krieg  | 05-13-2004   |
|                        | A54         | 2004-0106568         | A1           | Krieg et al.                                       | 06-03-2004   |
|                        | A55         | 2004-0131628         | A1           | Bratzler et al.                                    | 07-08-2004   |
|                        | A56         | 2004-0132685         | A1           | Krieg et al.                                       | 07-08-2004   |
|                        | A57         | 2004-0142469         | A1           | Krieg et al.                                       | 07-22-2004   |
|                        | A58         | 2004-0143112         | A1           | Krieg et al.                                       | 07-22-2004   |
|                        | A59         | 2004-0147468         | A1           | Krieg et al.                                       | 07-29-2004   |
|                        | A60         | 2004-0152649         | A1           | Krieg  | 08-05-2004   |
|                        | A61         | 2004-0152656         | A1           | Krieg et al.                                       | 08-05-2004   |
|                        | A62         | 2004-0152657         | A1           | Krieg et al.                                       | 08-05-2004   |
|                        | A63         | 2004-0162258         | A1           | Krieg et al.                                       | 08-19-2004   |
|                        | A64         | 2004-0162262         | A1           | Krieg et al.                                       | 08-19-2004   |
|                        | A65         | 2004-0167089         | A1           | Krieg et al.                                       | 08-26-2004   |
|                        | A66         | 2004-0171150         | A1           | Krieg et al.                                       | 09-02-2004   |
|                        | A67         | 2004-0171571         | A1           | Krieg et al.                                       | 09-02-2004   |
|                        | A68         | 2004-0181045         | A1           | Krieg et al.                                       | 09-16-2004   |
|                        | A69         | 2004-0198688         | A1           | Krieg et al.                                       | 10-07-2004   |
|                        |             |                      |              |  |  |
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FORM PTO-1449/A and B (Modified)

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

APPLICATION NO.: 09/355,254

ATTY. DOCKET NO.: C1041.70005US00

FILING DATE: February 22, 2000

CONFIRMATION NO.: 6183

APPLICANT: Wagner et al.

GROUP ART UNIT: 1635

EXAMINER: Jane J. Zara

Sheet

2

of

2

**FOREIGN PATENT DOCUMENTS**

| Examiner's<br>Initials | Cite<br>No. | Foreign Patent Document |             |              | Name of Patentee or Applicant of Cited<br>Document<br>(not necessary) | Date of<br>Publication of<br>Cited Document<br>MM-DD-YYYY | Translation<br>(Y/N) |
|------------------------|-------------|-------------------------|-------------|--------------|---|---|----------------------|
|                        |             | Office/<br>Country      | Number      | Kind<br>Code |   |   |                      |
|                        | B33         | WO                      | 2004/007743 | A2           | Coley Pharmaceutical GMBH   | 01-22-2004  |                      |
|                        | B34         | WO                      | 2004/039829 | A2           | Coley Pharmaceutical Group, Ltd.                                      | 05-13-2004  |                      |

**OTHER ART — NON PATENT LITERATURE DOCUMENTS**

| Examiner's<br>Initials | Cite<br>No | Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item<br>(book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s),<br>publisher, city and/or country where published. | Translation<br>(Y/N) |  |
|------------------------|------------|---|----------------------|--|
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|                        |            |   |                      |  |
|                        |            |   |                      |  |

EXAMINER:

DATE CONSIDERED:

#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant.

\*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. \_\_, filed \_\_, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

[NOTE - The Office hereby waives the requirement under 37 CFR 1.98 (a)(2)(i) for submitting a copy of each cited U.S. patent and each U.S. patent application publication for all U.S. national patent applications filed after June 30, 2003 and for all international applications that have entered the national stage under 35 USC 371 after June 30, 2003. See 37 CFR 1.491(b). For all patent applications filed on or before June 30, 2003, copies of cited U.S. patents and patent application publications are still required unless an eIDS is filed. Copies of all other patent(s), publication(s), or other information listed must still be provided, even if it was previously submitted to, or cited by, the U.S. Patent Office in an earlier application, unless the earlier application is identified by the IDS and is relied upon for an earlier filing date under 35 U.S.C. §120, and the copy was provided in the earlier application.]